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Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Los Angeles Region

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

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Arnold Schwarzenegger
Governor

Mr. Aziz Elatter
California Department of Transportation
100 South Main Street, Suite 100, MS 16A
Los Angeles, CA 90012

WATER QUALITY CERTIFICATION FOR PROPOSED VEN-23 CHANNEL REPAIR PROJECT (Corps' Project No. 2006-00869-MDC), THE UN-NAMED, NON-BLUE LINE DRAIN TRIBUTARIES TO THE SANTA CLARA RIVER WHICH TRIBUTARIES TO THE PACIFIC OCEAN, CITY OF FILLMORE, VENTURA COUNTY (File No. 05-232)

Dear Mr. Elatter:

Regional Board staff has reviewed your request on behalf of California Department of Transportation for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on March 10, 2006.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.

_____[Original signed by]_____
Jonathan S. Bishop
Executive Officer

April 20, 2006
Date

California Environmental Protection Agency



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ATTACHMENT A

Project Information File No. 05-232

1. Applicant: California Department of Transportation
100 South Main Street, Suite 100, MS 16A
Los Angeles, CA 90012

Phone: (213) 897-0686/897-4829 Fax: (213) 897-0685
2. Applicant's Agent: Aziz Elatter
3. Project Name: Ven-23 Channel Repair Project
4. Project Location: Fillmore, Ventura County

Longitude: 118.9157; Latitude: 34.3867
Longitude: 118.9157; Latitude: 34.3869
Longitude: 118.9158; Latitude: 34.3872
Longitude: 118.9158; Latitude: 34.3874
Longitude: 118.9158; Latitude: 34.3875
Longitude: 118.9159; Latitude: 34.3877
Longitude: 118.9159; Latitude: 34.3880
Longitude: 118.9160; Latitude: 34.3882
5. Type of Project: Channel repair along State Route 23
6. Project Description: *Purpose:*
The purpose of the proposed project is to restore the failed concrete section of the drainage to its original design capacity. It will be extended to the channel over a soft-bottom section of the drainage to prevent further bank erosion and maintenance emergencies to the highway and the adjacent private property during and after rainfall.

Description:
The proposed project is to reconstruct a collapsed trapezoidal concrete channel (non-blue line) to extend the concrete section of the channel over an eroding soft-bottom section of the drain. Then it will place ungrouted riprap on the eroding east bank at the north end of drain and add additional ungrouted riprap to the west bank of the drain. The drain tributaries directly to the Santa Clara River at

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the north end.

The total length of the proposed drainage work is 217 meters (712 feet). The proposed concrete section will be a total of 177 meters (581 feet), with 120 meters (394 feet) of the concrete section being the previously existing damaged section of the drain. The ungrouted riprap will be placed along the banks of the remaining 40 meters (131 feet) of the drain. Riprap is being placed at the north end of the drain to protect the southern bridge abutment of the State Route 23 Highway and because of its proximity to the Santa Clara River. The width of the concrete section of the drain will be 12.75 meters (42 feet). The width of the riprap section of the drain will be 6.75 meters (22 feet) at the bed of the drain and 10.35 meters (34 feet) as it reaches the top of the banks. The work will occur adjacent to the northbound State Route 23, between postmiles 23.55 to 2.36 in the City of Fillmore in Venture County.

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|---|--|
| 7. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP No. 13 (Permit No. 2006-00869-MDC) |
| 8. Other Required Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement
No. 1600-2005-0749-R5 |
| 9. California Environmental Quality Act Compliance: | The proposed project is Categorically Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302 (Replacement or Reconstruction). |
| 10. Receiving Water: | The un-named, non-blue line drain to the Santa Clara River which tributaries to the Pacific Ocean (Hydrologic Unit No. 403.31) |
| 11. Designated Beneficial Uses: | MUN*, IND, PROC, AGR, GWR, FRSH, REC-1, REC-2, WARM, WILD, RARE, MIGR, WET |

*Conditional beneficial use

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12. Impacted Waters of the United States: Non-wetland waters (unvegetated streambed): 0.17 temporary acres (167 linear feet) and 0.69 permanent acres (712 linear feet)
13. Dredge Volume: None
14. Related Projects Implemented/to be Implemented by the Applicant:
- Ven-101 Santa Clara River Bridge Widening Project
 - Grimes Canyon Bridge (52-114) Rock Slope Protection Emergency Project at postmile 20.76
 - Ven-126 Culvert Rehabilitation Project and the Brown Barranca Channel and Tributary at Wells Road. Construction is expected to state late Spring 2006
15. Avoidance/Minimization Activities:
- The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Clearing and grubbing of vegetation should be conducted outside of the bird-nesting season. Nesting season occurs between February 15th and September 1st. The measure is necessary in order to prevent impacts to nesting birds, which are protected under the Federal Migratory Bird Treaty Act and the California Department of Fish and Game Codes. If vegetation cannot be avoided during the nesting bird season, a survey for nesting birds will be necessary in order to determine their presence or absence.
 - Proposed construction activities should be conducted during the dry season and/or when flow within the channel is extremely low. Due to the fact that the channel is currently dry, no water diversion or groundwater measures are necessary. However, if water is present within the channel prior to the start of work, then water diversion plan as well as groundwater measures will need to be created and instituted to prevent downstream disturbance and impacts.
 - All work will be limited to the minimal area needed to complete the project.
 - All appropriate Stormwater Erosion and Construction Best Management Practices will be incorporated into the project specifications to minimize impacts to watercourses.

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Exclusionary fencing such as silt fencing should be installed at the northern work limit to delineate the work area and prevent unauthorized impacts to the Santa Clara River from construction-related access, staging or debris. In addition, installation of fencing should avoid and/or minimize sedimentation from construction-related activities. A qualified biologist should be present to monitor the installation of the fencing prior to grading activities.

- The contractor will follow all pollution and litter control laws and regulations.
- Division of Environmental Planning in the pre-construction meeting for the proposed project will be included.

16. Proposed Compensatory Mitigation:

A compensatory in-lieu fee mitigation contribution will be made to a local conservancy for invasive species removal within the Santa Clara River watershed. An environmental enhancement agreement will need to be developed with a local conservancy to facilitate the transfer of funds and develop the mitigation plan. As part of the mitigation plan, approximately 1.38 acre (2:1 ratio) of invasive species removal will occur. Location of the mitigation parcel is to be determined by the local conservancy with approval from Caltrans and jurisdictional agencies. Caltrans's Division of Environmental Planning is currently in the process of negotiation an in-lieu fee agreement with the Nature Conservancy for the Santa Clara River watershed. Once the terms of the agreement have been established and approved by all parties involved, a transfer of funds to mitigate for the proposed acreage amount for the project will occur.

See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.

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Conditions of Certification File No. 05-232

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times so they are familiar with all conditions set forth.
3. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.

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4. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State.
5. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
6. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
7. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
8. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain **a five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
9. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all construction activities which involve clearing. The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
10. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of

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Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.

11. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
12. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a **daily** basis during the first week of diversion activities, and then on a **weekly** basis, thereafter, until the in-stream work is complete. Results of the analyses shall be submitted to this Regional Board by the **15th** day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.
13. The Applicant shall restore the proposed **0.17 acres** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
14. The Applicant shall provide COMPENSATORY MITIGATION to the proposed permanent impacts to **0.69 acres** of vegetation within waters of the United States/Federal jurisdictional wetlands by creating or restoring riparian habitat at a minimum **2:1** area replacement ratio (**1.38 acres**). As an alternative, the Applicant may provide adequate funding to a local nature conservancy for the creation or restoration of a total of 1.38 acres of riparian habitat within waters of the United States. The mitigation site shall be located within the Santa Clara River Watershed unless otherwise approved by this Regional Board. The boundary of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional

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Board for approval prior to any disturbance within waters of the United States and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.

15. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
16. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1st** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved. The report shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
 - (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
17. Prior to any subsequent maintenance activities within the project areas, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the existing condition/capacity; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.

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18. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

19. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the _____ day of _____ at _____.

(Signature)
(Title)”

20. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **05-232**. Submittals shall be sent to the attention of the Nonpoint Source Unit.
21. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
22. The project shall comply with the local regulations associated with the Regional Board’s **Municipal Stormwater Permit** issued to Ventura County and co-permittees under NPDES No. CAS004002 and Waste Discharge Requirements Order No. 00-108. This includes the Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the

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National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.

23. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
24. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
25. *Enforcement:*
 - (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
 - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

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- (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.
26. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.